

As a consumer of digital content, I have a grave concern about the proposed Broadcast Flag. I enjoy the flexibility and control that technology gives me. I can be more than a passive recipient of content; I can modify, create and participate. Technology currently gives me more choices by allowing me to record a television program and watch it later; clip a small piece of TV and splice it into a home movie; send an email clip or video tape of my TV appearance to a distant relative; or record a TV program onto a VHS or DVD and play it at my friend's apartment. The broadcast flag seems designed to remove this control and flexibility that I enjoy.

Historically, the law has allowed for those not affiliated with creating content to come up with new, unanticipated ways of using it. For example, Sony invented the modern VCR -- a movie studio did not. (Sony did not own a movie studio at the time. And, the movie studios fought them every step of the way, sure it was nothing more than a device of piracy. Yet, now we see it turned out to be one of their greatest assets and allies, often allowing them to reap even more profits than theater showings of movies. If the movie studios had ultimate control over what could and could not be done with their content, a wonderful, useful, consumer-friendly device like the VCR would never have been allowed to exist in the first place.) Diamond Multimedia invented the MP3 player -- a recording label did not. (And, a similar war is still raging with the record labels against MP3. In the end, I'm sure they'll ultimately find it to be a great asset and ally, just as the movie studios did with!

the VCR. But, it's clear that, if it were up to them, the technology would not be allowed to exist at all.) Unfortunately, the broadcast flag has the potential to put an end to that dynamic. Because the broadcast flag defines what uses are authorized and which are not, unanticipated uses of content which are not foreseeable today are by default unauthorized. If we allow the content industry to "lock in" the definition of what is and is not legitimate use, we curtail the ability for future innovation - unanticipated but legal uses that will benefit consumers. (And, likely frighten the content holders, just as all innovative new technology has always frightened them in the past.)

I am a law-abiding consumer who believes that piracy should be prevented and prosecuted. However, if theoretical prevention comes at the cost of prohibiting me from making legal, personal use of my content, then the FCC should be working to protect all consumers rather than enable those who would restrict consumer rights. In the case of the broadcast flag, it seems that it will have little or no effect on piracy. A TV program has only to be cracked once, and it can then propagate rapidly by various means. And, placing such barriers on programs encourages people to crack them, and then spread them far and wide, just in simple retaliation against the perceived arrogance and hostility of the content holders in treating all of its customers as criminals by default. So, while I may be required to purchase consumer electronic devices that cost more and allow me to do less, piracy will not be diminished.

In closing, I urge you to require the content industry to demonstrate that its proposed technologies will allow for all (current and future) legal uses and will actually achieve the stated goal of preventing piracy. If they can not, I urge you not to mandate the broadcast flag.